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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,273	12/09/2004	Bernhard Podirsky	PIZ-106	2781

23557 7590 11/16/2007  
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EXAMINER
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NGUYEN, CHI Q

ART UNIT	PAPER NUMBER
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3635

MAIL DATE	DELIVERY MODE
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11/16/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/517,273	<b>Applicant(s)</b> PODIRSKY, BERNHARD	
	<b>Examiner</b> Chi Q. Nguyen	<b>Art Unit</b> 3635	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/4/2005 and 12/9/2004</u> . | 6) <input checked="" type="checkbox"/> Other: <u>attachment</u> .                       |

### **DETAILED ACTION**

This Office action is in response to applicant's patent application filed 12/9/2004.

#### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the bolts must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. And there are no numeral labeled for figure number.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

The disclosure is objected to because of the following informalities: Headings are missing.

In page 8, line 27, there is a typographical error for a body portion "108" instead of "104".

Appropriate correction is required.

***Claim Objections***

Claims 3, 11, 15, and 17 are objected to because of the following informalities: a citation "the adaptation" does not have antecedent basis. Appropriate correction is required.

Claim 11 is objected to because a citation "wherein a said longitudinal edge" appears to be a typo graphical error; the applicant is advised to delete "a". Correction is required.

Claim 15 is objected to because a citation "wherein said adjacent cladding portions" does not have antecedent basis. Correction is required.

Claim 17 is objected to because a citation "said member" does not have antecedent basis. Correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3-5, 9, 14 and 17-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regarding claim 3, a citation " wherein the adaptation of said body member portion overlying said roof is a flange dependent toward said roof from, and extending along, said elongate edge, said roof being provided with an elongate roof batten sealingly supported on said roof, said roof batten including an upper surface against which the inner surface of said body member bears in use, one or both of said inner surface and upper surface being provided with one or more elongate grooves forming in use a moisture excluding labyrinth between said inner surface and said upper surface" is confusing. Claims 4-5 depending upon the rejected claim 3 is also rejected.

Regarding claim 9, the phrase "may be" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

In regarding claim 14, a citation "one or both of said inner surface and upper surface being provided with one or more elongate grooves forming in use a moisture excluding labyrinth between said inner surface and said upper surface" is confusing. Claim 18 depending upon the rejected claim 14 is also rejected.

In regarding claim 17, a citation "a longitudinal commencing batten member attachable to the cladding surface said member having means lying in a first plane for inter-engagement with a first portion of the cladding member; and at least one longitudinal connecting batten member attachable to a cladding surface having means

lying in a second plane disposed at an angle to said first plane, for inter- engagement with a second portion of said cladding member and having means lying in a plane disposed parallel to said first plane for inter-engagement with a portion of an adjacent cladding member" is confusing.

In regarding claim 18, a citation "wherein said adjacent cladding portions form intersecting planes and wherein the body member comprises a pair of webs each adapted to overlie a respective said cladding portion in use, said webs being separated by curved portion adapted to overlie said junction" is confusing.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-15 and 17-18 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,636,481 to De Zen.

Claim 1:

De Zen discloses a cladding apparatus for covering the junction between a roof and a fascia of a building, wherein said apparatus comprises: an elongated body member 15 having an inner surface and an outer surface, each surface extending between opposed ends and opposed elongate side edges of the body member; a mounting batten 13 associated with said fascia 2 and adapted to engage at least one complementary mounting portion provided on said inner surface (no labeled but shown in Fig. 2);

complementary inter-engaging means 18 provided on respective said opposed ends and permitting substantially weatherproof engagement between adjacent body members when laid in longitudinal sequence (see Figs. 1-2).

Claim 2:

Wherein the body member portion overlying said roof is adapted to impede the ingress of weather under said body member in use (see Fig. 1).

Claim 3:

As best understood, De Zen discloses the claimed invention and wherein the adaptation of said body member portion 17 overlying said roof is a flange F (see attachment of Fig. 2) dependent toward said roof from, and extending along, said elongate edge, said roof being provided with an elongate roof batten 14 sealingly supported on said roof, said roof batten including an upper surface against which the inner surface of said body member bears in use (see Fig. 12), one or both of said inner surface and upper surface being provided with one or more elongate grooves forming in use a moisture excluding labyrinth between said inner surface and said upper surface.

Claim 4:

Wherein said roof comprises a shingle laid roof, said roof batten having a profile selected to conform to said shingle laid roof (see Figs. 1-2).

Claim 5:

Wherein said flange F in use has its lower edge clear of said roof, so as not to interfere with intimate contact of said upper and inner surfaces.

Claim 6:

Wherein said mounting portion and mounting batten are provided with complementary profiles permitting snap-in connection therebetween (see Fig. 2).

Claim 7:

Wherein said mounting portion and mounting batten are provided with complementary profiles permitting connection therebetween by longitudinally sliding said mounting portion on said mounting batten (see Fig. 2).

Claim 8:

Wherein said mounting portion and mounting batten are substantially continuous along their respective lengths, whereby said body members are sequentially installed by sliding from one end of said mounting batten (see Fig. 2).

Claim 9:

Wherein said mounting portion and mounting batten are complementarily interrupted whereby said body members may be sequentially installed by offering up said body members to said batten intermediate its ends and sliding said body members into engagement with said batten (see Fig. 2).

Claim 10:

Wherein said complementary profiles comprise a longitudinal bolt B and track pair T (see attachment of Fig. 2).

Claim 11:

Wherein said longitudinal edge adjacent said mounting portion includes a flange F dependent toward said cladding from, and extending along, said elongate edge, to substantially conceal said mounting batten in use.



Claim 12:

Wherein said complementary inter-engaging means (wherein 18 points to) provided on respective said opposed ends comprise an overlapping skirt portion (upper surface of the upper end portion and lower surface of the other end portion) on one said end and an underlying skirt portion on the other said end (see Figs. 1-3).

Claim 13:

Wherein mating faces of said overlapping skirt portion and said underlying skirt portion are provided with complementary surfaces features cooperating in use to form a weather impeding labyrinth (see Fig. 1).

Claim 14:

De Zen discloses a cladding apparatus for covering the junction between a roof and a fascia, wherein said apparatus comprises including: an elongated body member 15 having an inner surface and an outer surface, each surface extending between opposed ends and opposed elongate side edges of the body member, a body member portion 17 overlying said roof having a flange F (see an attachment of Fig. 2) dependent toward said roof from, and extending along, said elongate edge, said opposed ends respectively comprising an overlapping skirt portion (wherein 18 points to- an upper surface of the upper portion) on one said end and an underlying skirt portion (under surface of the other end) on the other said end permitting substantially weatherproof engagement between adjacent body members when laid in longitudinal sequence; an elongate roof batten 14 sealingly supported on said roof, said roof batten including an upper surface against which the inner surface of said body member bears in use (see

Fig. 12), one or both of said inner surface and upper surface being provided with one or more elongate grooves G (see attachment of Fig. 2) forming in use a moisture excluding labyrinth between said inner surface and said upper surface; a mounting batten 13 associated with said fascia and adapted to engage at least one complementary mounting portion provided on said inner surface, said mounting portion and mounting batten being substantially continuous along their respective lengths and provided with complementary profiles permitting connection therebetween by longitudinally sliding said mounting portion on said mounting batten by sliding from one end of said mounting batten (see Fig. 12).

Claim 18:

Wherein said adjacent cladding portions form intersecting planes(see Fig. 14) and wherein the body member comprises a pair of webs (Fig. 2) each adapted to overlie a respective said cladding portion in use, said webs being separated by curved portion adapted to overlie said junction.

Claim 15:

Wherein said adjacent cladding portions form intersecting planes and wherein the body member comprises a pair of webs each adapted to overlie a respective said cladding portion in use, said webs being separated by curved portion adapted to overlie said junction (see Fig. 14).

Claim 17:

As best understood, De Zen discloses a cladding system for removably attaching a cladding member to a cladding surface including: a longitudinal commencing batten

member 13 attachable to the cladding surface (see Fig. 2) said member having means (see Fig. 2) lying in a first plane for inter-engagement with a first portion of the cladding member; and at least one longitudinal connecting batten member 14 attachable to a cladding surface having means (which is a groove show in Figs. 2 and 14) lying in a second plane disposed at an angle to said first plane, for inter- engagement with a second portion of said cladding member and having means (projections from an inner surface of the cladding member) lying in a plane disposed parallel to said first plane for inter-engagement with a portion of an adjacent cladding member (see Figs. 2 and 14).

Claim 16 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,074,093 to Meadows.

Claim 16:

Meadows discloses a cladding member comprising: a substantially planar body 6 having inner and outer faces; a web (no labeled but show in Figs. 1-2) extending outwardly from a first end of the inner face of said body; a first projection 26 extending from said web along said body; and a second projection 28 extending outwardly from a second end of the inner face of said body.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at (571) 272-6777.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

CQN  


11/1/2007

/J. CHAPMAN/  
PRIMARY EXAMINER  
ART UNIT 3635

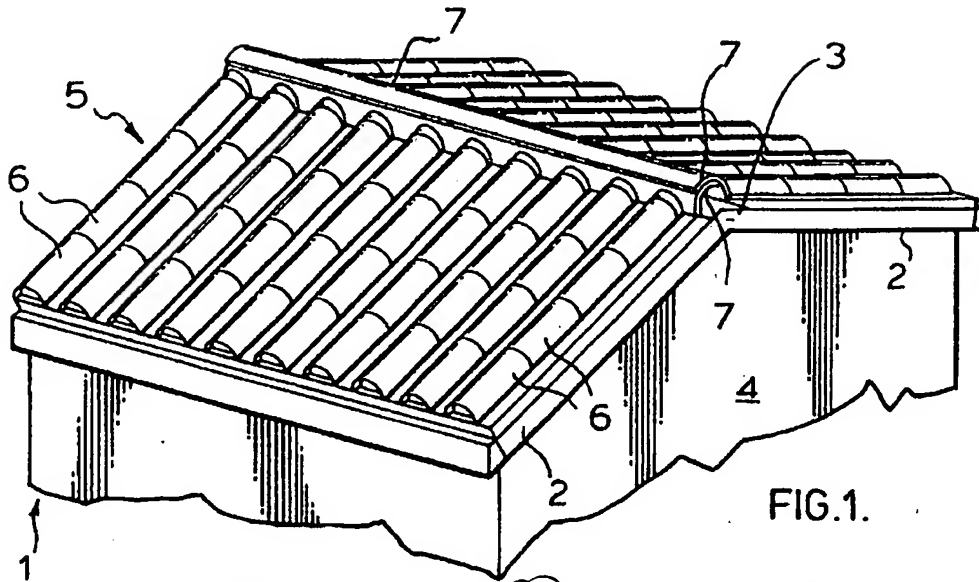


FIG. 1.

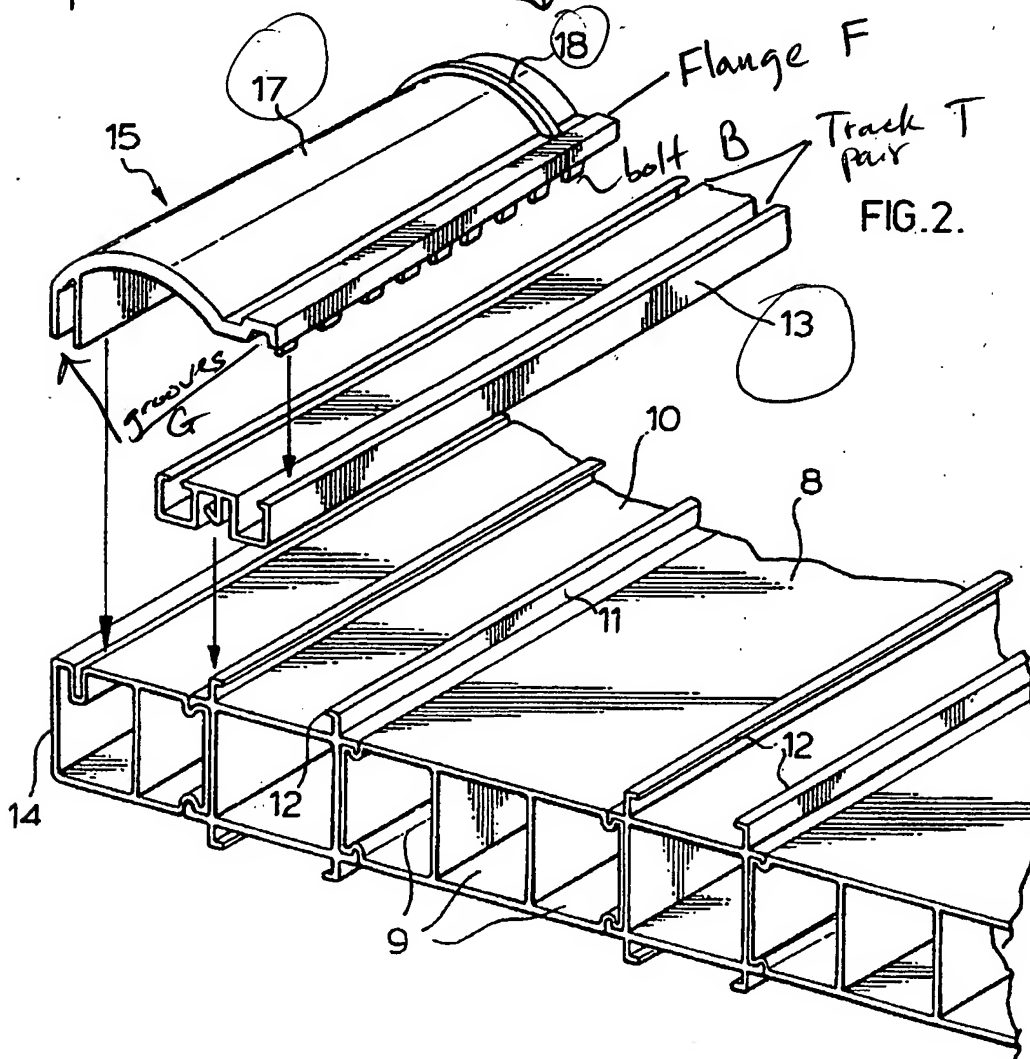


FIG. 2.